

20 Civ. 06274 (LAK)

United States District Court

for the

Southern District of New York

IN RE TRANSCARE CORPORATION, ET AL.

DEBTORS,

PATRIARCH PARTNERS AGENCY SERVICES, LLC, ET AL.

DEFENDANTS-APPELLANTS,

—against—

**SALVATORE LAMONICA, AS CHAPTER 7 TRUSTEE OF THE JOINTLY- ADMINISTERED
ESTATES OF TRANSCARE CORPORATION, ET AL.,**

PLAINTIFF-APPELLEE.

**ON APPEAL FROM THE UNITED STATES BANKRUPTCY COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK (BERNSTEIN, J.)**

IN RE: TRANSCARE CORPORATION, ET AL., CASE NO. 16-10407 (SMB)

LAMONICA V. TILTON, ET AL., ADV. PROC. NO. 18-1021 (SMB)

SUPPLEMENTAL APPENDIX TO APPELLEE'S BRIEF

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Appellee Salvatore LaMonica, as
Chapter 7 Trustee*

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Document Description	Date	Exhibit No.	Appendix Page
Email from Michael Greenberg to Lynn Tilton; copying Jean Luc Pelissier, Brian Stephen - TransCare - Summary of meeting with Wells Fargo	12/21/2015	DX 97	A4185
Email from Brian Stephen to Matt Nolan and Jean Luc Pelissier, copying Glen Youngblood, Thomas Fuchs, Thomas Milea, Earl Kossuth, Jean Luc Pelissier (CBA), Michael Greenberg, Randy Jones and John Pothin -RE: Securing Assets	2/25/2016	JX 103	A4187
Email from Brian Stephen to Dian Morgenroth - Re: Transcendence Transit II, Inc./Paratransit Agreement	2/26/2016	PX 244	A4192
Exhibit D to Proposed Joint Pretrial Order – Trustee’s Designations to J. Husson Deposition	5/14/2019	Dkt. 85-4	A4196
Excerpt of Designated Deposition Testimony of John Husson in <i>LaMonica v. Tilton, et al</i> , Adv. Proc. No. 18-01021-smb	11/12/2018		A4203

From: Michael Greenberg
Sent: Monday, December 21, 2015 7:24 PM
To: Lynn Tilton
Cc: Jean Luc Pelissier; Brian Stephen
Subject: TransCare - Summary of meeting with Wells Fargo

Privileged and confidential

Lynn,

Below is a summary from today's meeting with John Husson and Bob Strack. We will discuss a few additional items as well.

- John has been frustrated by the surprises including those related to the borrowing base and recent surprise regarding payroll taxes.
- We explained that we have been similarly frustrated.
- Their attorneys said that the Milea property's eviction could still be enforceable (Milea will still want to evict even if payments are made) (even if \$888k in payments are made). Mark reported the same post the receipt of the court order (case is on January 22nd). TransCare will also look to pay its \$81k in rent in January. TransCare is looking for alternative space in the interim (just in case).
- John mentioned the upcoming January 31st maturity and that they continue to lend on a discretionary basis (we said that it why the short-term agreement needs to be completed).

Key components as they outlined to a long-term agreement.

- We mentioned a 9-month time frame. They believed that it may be long but could definitely live with a 6-month time frame (9 months if possible but would need to discuss internally).
- Payment priority in a sale (allocation of sale proceeds). Wells Fargo would want assure that Wells Fargo is paid out first from the proceeds of a sale. Wells had said that the Intercreditor Agreement is silent on this issue but believe they should be adequately covered on their outstanding amount.
- Agreed upon budget. Based on the time frame, Wells Fargo would like to receive a budget shows TransCare paying all expenses on a current basis. Covenant that will allow for a 10% - 15% variance (sounded like 15% could work).
- Capitalization and liquidity. Prefer a plan that has a liquidity cushion (does not have to be \$1MM in unused availability but even \$500k (enough to absorb allowed variance) versus current level which is typically very low (under \$100k).
- Ongoing financial reporting will be required as part of covenants.
- Consultant – Wells Fargo would want a third-party consultant. Wells Fargo has someone they would recommend but Patriarch would interview and vet. Consultant would report to the Board but Wells Fargo would have access to consultant. Consultant would assist Mark or be interim CFO and review budget, assist Mark in managing liquidity, perform a variance analysis of actual vs. budget.
 - Company would pay for the consultant. Cost likely to average about \$40k per month.
 - None of the high priced firms. Wells Fargo has several consultants with experience in the ambulance sector.
 -
- Critical payments – Wells Fargo would want a representation that critical payments are being made in accordance with the agreed upon budget (mentioned in particular payroll, payroll taxes and

insurance). Critical operating expenses (payroll, payroll taxes, insurance were mentioned). Otherwise, they would view this as an event of default.

- Milestones would be set as part of the sale process (depending on the time frame agreed to).
- Reserves - John said he could see if they could provide some notice on a reserve if still within BBC formula (Wells Fargo is not over advanced after the borrowing request).
- Sub-note as part of ABL – They highlighted a number of legal concerns and that it went all the way up to Kurt (who discussed with credit side but could not get there).

Wells Fargo also asked for the latest payments that are coming due. We explained that NYSIF remaining payments (\$1MM by year-end) and Milea/Hamilton payment (\$444k by December 31st) were the most meaningful. NYSIF is owed another \$800k in Q1 2016 and requested a \$400k down payment to renew in 2016 (originally deferred).

Thank you,
Michael

Michael S. Greenberg
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From: Brian Stephen
Sent: Thursday, February 25, 2016 11:39 PM
To: 'Matt Nolan'; Jean Luc Pelissier (CBA)
Cc: 'Glen Youngblood'; 'Thomas Fuchs'; 'Thomas Milea'; Earl Kossuth; Jean Luc Pelissier; Michael Greenberg; Randy Jones; John Pothin
Subject: RE: Securing Assets

Please note that this would only apply to employees in good standing with Transcendence – meaning those that continue to work as scheduled.

From: Brian Stephen
Sent: Thursday, February 25, 2016 11:37 PM
To: 'Matt Nolan'; Jean Luc Pelissier (CBA)
Cc: Glen Youngblood; Thomas Fuchs; Thomas Milea; Earl Kossuth; Jean Luc Pelissier; Michael Greenberg; Randy Jones; John Pothin
Subject: RE: Securing Assets

Matt,

I have information on the payroll – and we ask that Glenn to please get this message out to the NewCo employees ASAP.

If the Transcare bankruptcy estate does not make payroll for last week, Transcendence Transit will pick up that liability and pay Transcendence Transit employees for their last week of work for TransCare. It may take a day or so to get the payments into the system, but the employees will be paid.

From: Matt Nolan [mailto:MattN@transcare.com]
Sent: Thursday, February 25, 2016 11:25 PM
To: Jean Luc Pelissier (CBA)
Cc: Brian Stephen; Glen Youngblood; Thomas Fuchs; Thomas Milea; Earl Kossuth; Jean Luc Pelissier; Michael Greenberg; Randy Jones; John Pothin
Subject: Re: Securing Assets

Is Hudson Valley payroll ok for tomorrow?

MN

Matt Nolan
Vice President
TransCare Hudson Valley
10 South White Street
Poughkeepsie, New York 12601
(845) 234-3199

On Feb 25, 2016, at 11:23 PM, "pelissier@cbagroupllc.com" <pelissier@cbagroupllc.com> wrote:

Brian and all

I just talked to Glenn who had just talked to Tom Milea

Here is the plan : Tom, Glenn and some other resources are going to the Milea building to pick up the AS400 server.

The server will be moved using a non ambulance vehicle to the MTA facility and reconnected on time for the MTA para transit division to do their early morning routing.

Earl in PA will not be able to do CAD toomorow and will have to manage with the according procedure.

Billing in PA will be held for a couple of days until the system is back in service. The AS400 move should not have any impact on Hudson Valley since they are using a different system for call intake, dispatch and billing.

So as long as they can take the system tonight and move it to the MTA , they know they have enough air conditioning to run it and get going.

Earl , you will have to plan running the next two days without CAD access which I understand you have a procedure for it.

Best regards, Jean Luc
Sent via BlackBerry by AT&T

From: Brian Stephen <Brian.Stephen@PatriarchPartners.com>
Date: Fri, 26 Feb 2016 04:14:35 +0000
To: Matt Nolan<MattN@transcare.com>
Cc: Glen Youngblood<GlenY@transcare.com>; Thomas Fuchs<thomasf@transcare.com>; Thomas Milea<thomasm@transcare.com>; Earl Kossuth<earlk@transcare.com>; Jean Luc Pelissier<JeanLuc.Pelissier@PatriarchPartners.com>; Michael Greenberg<Michael.Greenberg@PatriarchPartners.com>; Randy Jones<Randy.Jones@PatriarchPartners.com>; John Pothin<John.Pothin@PatriarchPartners.com>
Subject: RE: Securing Assets

Matt,

I am trying to confirm that it does not, but I've been out of the loop on some of that. It is my understanding that we want to do all we can for NewCo employees and a big part of that is having an operating company as a whole.

Is there anyone who can reach out to emsCharts about the ePCR agreement? We need to get that moved to Newco ASAP. Please let me know who might be able to handle that.

Also, we're going to need to make sure we can get to the MTA vehicles – I have been corresponding with Tom Charles and his attorney tonight and they are expecting business as usual while we iron work through the assignment process.

Ultimately, we need to identify someone at Transcendence who can help make sure that things do not go off the rails because of whatever might be happening at TransCare.

From: Matt Nolan [<mailto:MattN@transcare.com>]
Sent: Thursday, February 25, 2016 10:59 PM
To: Brian Stephen
Cc: Glen Youngblood; Thomas Fuchs; Thomas Milea; Earl Kossuth; Jean Luc Pelissier; Michael Greenberg; Randy Jones; John Pothin
Subject: Re: Securing Assets

Does this impact Hudson Valley payroll?

Matt Nolan
Vice President
TransCare Hudson Valley
10 South White Street
Poughkeepsie, New York 12601
(845) 234-3199

On Feb 25, 2016, at 10:53 PM, Brian Stephen <Brian.Stephen@PatriarchPartners.com> wrote:

Everyone,

As you may be aware, the senior lenders for TransCare foreclosed on all of its assets and those assets were sold to Transcendence Transit.

The initial proposal was to allow TransCare to continue to use those assets for a period of time to allow it to wind-down its business in an orderly fashion.

Unfortunately, due to a number of circumstances, that will not be the case and there will be no wind-down period.

As a result, we need to try and secure as many assets (ambulances, equipment, etc.) as possible as quickly as we can.

I am not entirely sure where the most valuable assets are, but it makes sense to target those first – if those assets can be moved.

The TransCare bankruptcy trustee has ordered employees to stop working and to return to their bases. I have heard unconfirmed reports that some are leaving ambulances on the road and walking away – I am not sure whether that is an accurate report.

We need to develop a plan to try and save as much as we can.

Please let me know if people are available for a call tonight and we will try to come up with a method to save what we can.

Thanks,
Brian

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From: Brian Stephen
Sent: Friday, February 26, 2016 11:34 AM
To: 'Morgenroth, Diane'
Subject: RE: Transcendence Transit II, Inc./Paratransit Agreement

Hi Diane,

Do you have a moment to speak about TC Paratransit?

If so, please let me know the best number to reach you.

Best,
Brian

From: Morgenroth, Diane [mailto:Diane.Morgenroth@nyct.com]
Sent: Thursday, February 25, 2016 11:12 PM
To: Brian Stephen
Subject: Re: Transcendence Transit II, Inc./Paratransit Agreement

Ok. Talk to you tomorrow. I just finished dinner!!!! And the restaurant was packed.

Diane M.

On Feb 25, 2016, at 10:03 PM, Brian Stephen <Brian.Stephen@PatriarchPartners.com> wrote:

Diane,

Thank you.

I have a doctor's appointment in the morning, but will be in around 9:45 or so and we can catch up anytime when you are available,

Best,
Brian

From: Morgenroth, Diane [mailto:Diane.Morgenroth@nyct.com]
Sent: Thursday, February 25, 2016 9:56 PM
To: Brian Stephen
Cc: Charles, Thomas; Randy Jones
Subject: Re: Transcendence Transit II, Inc./Paratransit Agreement

Thank you for the explanation. We will be in touch tomorrow.

I understood that you and Transcare were to meet with the Trustee today and I would be interested in learning what transpired.

Diane Morgenroth

On Feb 25, 2016, at 8:49 PM, Brian Stephen <Brian.Stephen@PatriarchPartners.com> wrote:

Tom and Diane,

My name is Brian Stephen and I am an attorney with Patriarch Partners.

I understand there has been some confusion about recent events and I am hopeful that my below description will shed some much needed light on events.

At 12:01AM on February 24, 2016, certain secured lenders of TransCare Corporation and TransCare New York, Inc. (collectively, "TransCare") notified TransCare that the company was in default under the terms of its credit agreement.

The secured lenders agreed to accept certain collateral from TransCare, including, but not limited to, the Access-A-Ride Paratransit Transportation Service Agreement (the "Agreement") between the MTA and TransCare, in satisfaction of a portion of TransCare's obligations to the secured lenders.

The Agreement is a "general intangible" and, under the applicable credit document, the lenders were able to foreclose on it. The lenders foreclosed on the Agreement to try and protect the MTA's Paratransit operations as well as the 390 TransCare employees who provide the service.

Immediately after the foreclosure, the secured lenders sold the foreclosed assets (including the Agreement) to Transcendence Transit, Inc., which, in turn, contributed the Agreement to its wholly-owned subsidiary Transcendence Transit II, Inc.

Our goal in establishing Transcendence Transit II and for housing the Agreement with this entity is to protect the integrity of the Agreement and properly segregate any and all MTA-related revenue from the rest of the Transcendence Transit's operations. From our prior discussions, we know that this separation is necessary in order to allow the MTA to properly audit and monitor Transcendence Transit II's performance and compliance with the Agreement's terms and conditions. Basically, we carefully considered the concerns that the MTA raised with TransCare over the years and took meticulous care to try and structure the arrangement to address all of those concerns – including establishing separate bank accounts for Transcendence Transit II.

Both Transcendence Transit and Transcendence Transit II are Delaware corporations and were formed on February 10, 2016, which is 14 days prior to the foreclosure. For your reference, I have also attached the Certificates of Incorporation for both companies.

All of the 390 drivers and other TransCare employees necessary for Transcendence Transit II to continue to provide service under the Agreement were transferred to Transcendence Transit II at the time of the foreclosure and are now employees of Transcendence Transit II; complete with health benefits and the availability of direct deposit for wages, which was no longer possible with TransCare New York.

In addition, both Transcendence Transit and Transcendence Transit II have Automobile Insurance, Excess Liability Insurance (including Excess Automobile coverage), General Liability Insurance, and Workers' Compensation Insurance.

With respect to the bankruptcy, TransCare filed for bankruptcy protection under Chapter 7 of the U.S. Bankruptcy Code on the evening of February 24th and after the foreclosure. The bankruptcy trustee does not have the power and authority to unwind the foreclosure – nor has he expressed any misgivings or concerns about the foreclosure. In point of fact, it is much better for the bankruptcy trustee and for TransCare's bankruptcy estate that the Agreement and the employees associated with it have been moved and are no longer TransCare's responsibility.

The bankruptcy of TransCare has no impact on Transcendence Transit II's ability to provide uninterrupted service to the MTA in accordance with the terms of the Agreement.

I hope this provides you with answers to some of your questions and I will be available to speak with you and/or Ms. Morgenroth at 10PM or before if either of you becomes available.

Best,
Brian

Brian D. Stephen
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<TRANSCENDENCE TRANSIT INC - DE - Formation.pdf>

<TRANSCENDENCE TRANSIT II INC - DE - Formation.pdf>

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LAMONICA V. TILTON, ET AL.

**EXHIBIT D TO PROPOSED JOINT PRETRIAL
ORDER**

**TRUSTEE'S DESIGNATIONS TO J. HUSSON
DEPOSITION**

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re

**TRANSCARE CORPORATION, et al.,
Debtors.**

**SALVATORE LAMONICA, as Chapter 7 Trustee
for the Estates of TransCare Corporation, et al.,**

Plaintiff,

v.

LYNN TILTON, et al.,

Defendants.

Chapter 7

Case No. 16-10407 (SMB)

(Jointly Administered)

Adv. Proc. No. 18-01021

**TRUSTEE'S DESIGNATIONS OF THE
DEPOSITIONS OF JOHN HUSSON DATED NOVEMBER 12, 2018 AND
DEFENDANTS' OBJECTIONS AND CROSS-DESIGNATIONS**

I. *Ien v. TransCare Corp., et al.*, Adv. Proc. No. 16-1033, Rule 30(b)(6) Deposition Transcript¹

DESIGNATIONS (PAGES/LINES)		OBJECTION(S)	CROSS DESIGNATIONS (PAGES/LINES)
1.	8:22-9:3		
2.	9:8-13:24		
3.	16:25-18:25	17:23-18:17: Lack of personal knowledge; Improper lay opinion 18:18-25: Hearsay	
4.	19:7-21:8	19:10-23: Hearsay; Lack of foundation; Lack of personal knowledge 21:3-8: Lack of personal knowledge; Improper lay opinion	
5.	27:17-20		
6.	28:22-29:8	Lack of relevance	
7.	32:13-36:20	33:2-34:6: Lack of personal knowledge; Hearsay 36:17-20: Lack of personal knowledge; Improper lay opinion	
8.	39:11-18		
9.	42:6-45:9	42:12-23: Hearsay; Lack of personal knowledge 42:24-43:16: Hearsay; Lack of personal knowledge; Lack of relevance 44:3-44:23: Hearsay; Lack of personal knowledge; Lack of relevance	

¹ To the extent the Trustee withdraws any portion of the testimony designated herein, Defendants reserve all rights to supplement their designations with some or all of the withdrawn testimony.

DESIGNATIONS (PAGES/LINES)		OBJECTION(S)	CROSS DESIGNATIONS (PAGES/LINES)
		44:24-45:5: Lack of foundation; Lack of personal knowledge; Lack of relevance	
10.	48:15-51:6	50:8-14: Lack of relevance; Lack of foundation	
11.	53:23-54:12	Lack of relevance	
12.	56:18-57:25	56:18-57:20: Lack of relevance 57:21-25: Lack of relevance; Lack of personal knowledge; Lack of foundation	
13.	58:2-60:8		
14.	63:16-65:16	Lack of personal knowledge	
15.	66:19-71:6		
16.	71:15-18		
17.	72:5-73:24	73:2-21: Hearsay	
18.	84:7-86:3	Lack of relevance	
19.	87:22-88:2	Lack of relevance; Lack of personal knowledge	
20.	93:8-94:5	Lack of relevance	
21.	95:17-97:8	Lack of personal knowledge; Lack of relevance	
22.	98:22-99:4	Lack of foundation; Lack of relevance	
23.	99:10-23	Lack of relevance	
24.	100:12-101:18	Lack of relevance	
25.	107:18-108:2		
26.	109:13-110:9		
27.	112:22-114:10	Lack of relevance	

DESIGNATIONS (PAGES/LINES)		OBJECTION(S)	CROSS DESIGNATIONS (PAGES/LINES)
28.	114:22-116:16	116:4-16: Lack of relevance	
29.	116:17-119:16	Lack of relevance	
30.	120:21-122:7	120:21-121:11: Lack of relevance 121:12-122:7: Lack of relevance; Lack of foundation	
31.	123:9-22		

II. *Lamonica v. Tilton, et al.*, Adv. Proc. No. 18-1021, Rule 30(b)(6) Deposition Transcript

DESIGNATIONS (PAGES/LINES)		OBJECTION(S)	CROSS DESIGNATIONS (PAGES/LINES)
1.	10:25-11:25		
2.	12:2-14:5	Lack of relevance	
3.	14:14-15:16		
4.	16:14-22:15	19:7-20:2: Improper lay opinion; Lack of foundation 20:14-21:5: Lack of relevance 21:6-22:15: Lack of foundation; Lack of personal knowledge; Lack of relevance	
5.	23:11-25:10		
6.	25:11-28:5		
7.	29:9-31:5	Lack of foundation; Lack of personal knowledge	
8.	40:25-42:3		
9.	44:3-50:11	46:13-47:7: Lack of relevance 47:8-48:10: Lack of relevance; Lack of personal knowledge 48:11-50:11: Lack of	

DESIGNATIONS (PAGES/LINES)		OBJECTION(S)	CROSS DESIGNATIONS (PAGES/LINES)
		relevance	
10.	50:12-51:5		
11.	52:10-55:18		
12.	55:19-57:6		
13.	59:12-60:8		
14.	65:11-67:10	Lack of relevance	
15.	67:22-68:4	Lack of relevance	
16.	72:12-73:13		
17.	73:14-78:9	76:19-77:5: Improper lay opinion	
18.	78:24-79:6		
19.	80:3-17		
20.	82:3-83:8	82:23-83:5: Improper lay opinion	
21.	84:3-15		
22.	87:2-21	Lack of relevance	
23.	88:4-25	Lack of relevance; Hearsay	
24.	92:11-95:4	92:11-93:11: Lack of relevance 93:12-95:4: Lack of relevance; Hearsay	
25.	99:12-102:18	Lack of relevance; Hearsay	
26.	111:8-113:22	113:3-22: Lack of relevance	
27.	114:4-12	Lack of relevance; Hearsay	
28.	115:7-16		
29.	117:7-120:24		
30.	125:25-128:9		128:10-22

DESIGNATIONS (PAGES/LINES)		OBJECTION(S)	CROSS DESIGNATIONS (PAGES/LINES)
31.	129:13-131:15		
32.	132:15-133:11		

Dated: May 14, 2019
New York, New York

STORCH AMINI PC

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Attorneys for Plaintiff

Dated: May 14, 2019
New York, New York

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Attorneys for Defendants

11/12/2018 Husson Deposition Transcript

[Page 1-7; 82-83]

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

TRANSCARE CORPORATION, et al., Chapter 7
DEBTORS.

SALVATORE LAMONICA, as Chapter 7 Trustee of the Estates of TransCare Corporation, et al., 16-10407 (SMB)

TransCare Corporation, et al.,

TransCare Corporation, et al.,

TransCare Corporation, et al.,

TransCare Corporation, et al.,

Plaintiff,
VS.
Jointly
Administered

LYNN TILTON, PATRIARCH PARTNERS
AGENCY SERVICES, LLC, PATRIARCH PARTNERS, LLC, PATRIARCH PARTNERS, LLC, MANAGEMENT GROUP, LLC, ARK II CLO 2001-1, LIMITED, ARK INVESTMENT PARTNERS II, LP, LD INVESTMENTS, LLC, PATRIARCH PARTNERS II, LLC, PATRIARCH PARTNERS III, LLC, PATRIARCH PARTNERS VIII, LLC, PATRIARCH PARTNERS XIV, LLC, PATRIARCH PARTNERS XV, LLC, TRANSCENDENCE TRANSIT, INC., and TRANSCENDENCE TRANSIT II, INC.,

Defendants.

VIDEOTAPED DEPOSITION OF JOHN HUSSON
Monday, November 12, 2018
New York, New York

Reported by:

AYLETTE GONZALEZ, RPR, CLR, CCR

JOB NO. 150938

1

2 DATE: November 12, 2018

3 TIME: 3:14 p.m.

4

5

6 Videotaped deposition of JOHN HUSSON,
7 held at the offices of STORCH AMINI, P.C., 2
8 Grand Central Tower, 140 East 45th Street,
9 New York, New York 10017, pursuant to
10 NOTICE, before AYLETTE GONZALEZ, a
11 Registered Professional Reporter, Certified
12 LiveNote Reporter, Certified Court Reporter
13 and Notary Public of the States of New York
14 and New Jersey.

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1

2 A P P E A R A N C E S:

3

4 STORCH AMINI

5 Special Counsel for Chapter 7 Trustee

6 Salvatore LaMonica

7 2 Grand Central Tower

8 140 East 45th Street

9 New York, New York 10017

10 BY: BIJAN AMINI, ESQ.

11

12

13 PROSKAUER ROSE

14 Counsel for Defendants

15 Eleven Times Square

16 New York, New York 10036

17 BY: MICHAEL MERVIS, ESQ.

18 NICOLE EICHLERGER, ESQ.

19

20

21

22

23

24

25

1

2 A P P E A R A N C E S:

3

4 OUTTEN & GOLDEN

5 Counsel for Ten Plaintiffs

6 685 Third Avenue

7 New York, New York 10017

8 BY: JACK RAISNER, ESQ.

9 ROBERT FISHER, ESQ.

10

11

12

13

14 OTTERBOURG

15 Counsel for the Witness JOHN HUSSON

16 230 Park Avenue

17 New York, New York 10169

18 BY: STANLEY LANE, JR., Esq.

19

20

21

22

23

24

25

1

2 A P P E A R A N C E S:

3

4 LAMONICA, HERBST & MANISCALCO

5 Counsel for the Trustee

6 3305 Jerusalem Avenue

7 Wantagh, New York 11793

8 BY: JOSEPH MANISCALCO, ESQ.

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12 PATRIARCH PARTNER

13 One Liberty Plaza

14 New York, New York 10006

15 BY: WINDY McCracken, ESQ.

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19 ALSO PRESENT:

20 MALENE SCHJOENNING, Videographer

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1 JOHN HUSSON (11/12/18)

2 THE VIDEOGRAPHER: Good afternoon.

3 We're on the record to begin the
4 deposition of representative of Wells
5 Fargo Bank, John Husson in the matter
6 of Salvatore Lamonica vs. Lynn Tilton,
7 et al.

8 The case is venued in the
9 United States Bankruptcy Court
10 Southern District of New York. The
11 case number is 16-10407.

12 Today's date is Monday,
13 November 12, 2018. The time is
14 3:15 p.m. The deposition is taking
15 place at Storch Amini PC, 140 East
16 45th Street, 25th Floor, New York,
17 New York 10017.

18 The legal videographer is Malene
19 Schnoening here on behalf of Story
20 Cloud.

21 The court reporter is
22 Aylette Gonzalez here on behalf of TSG
23 Reporting.

24 Counsel, beware, the microphone is
25 sensitive, may pick up whispers,

1 JOHN HUSSON (11/12/18)
2 private conversations and cellular
3 interference, which may be captured on
4 the video, as well as taken down by
5 the court reporter as part of the
6 record of these proceedings.

7 The witness know you're still
8 under oath?

9 THE WITNESS: Yes.

10 THE VIDEOGRAPHER: You may
11 proceed.

12 MR. AMINI: Before we start,
13 Michael, I think we've agreed, have we
14 not, that the transcript in the case
15 that was just taken in the WARN action
16 can be used in our action if as though
17 it were taken in our action?

18 MR. MERVIS: Sure.

19 MR. AMINI: That way, we'll avoid
20 any -- we'll avoid a lot of
21 repetition, put it that way.

22 MR. MERVIS: Yes.

23 MR. AMINI: All right.

24 J O H N H U S S O N, resumed and testified
25 as follows:

1 JOHN HUSSON (11/12/18)

2 Q. No.

3 When did you find out about the
4 fore- -- do you know what the -- did you come
5 to an understanding that Ms. Tilton had
6 foreclosed on certain businesses?

7 A. Yes.

8 Q. How did you find out about that?

9 A. I was alerted to that by our
10 counsel.

11 Q. All right. Were you alerted to it
12 after the fact?

13 A. After the fact.

14 Q. Were you told beforehand that it
15 was going to happen?

16 A. No. We had considered doing this
17 in a bankruptcy, but that never took place.
18 And then it was -- the companies were filed
19 and we found out about it, it was sort of done
20 unilaterally -- unilaterally without any
21 discussion or consideration given to us.
22 That's my recollection.

23 Q. And did you believe that having
24 done it unilaterally without any discussion or
25 consideration given to us was a default under

1 JOHN HUSSON (11/12/18)

2 your Agreement?

3 MR. MERVIS: Objection to the
4 form.

5 A. Oh, yes.

6 Q. You -- did you give consent to that
7 foreclosure?

8 A. No.

9 MR. AMINI: All right. Can we
10 take a break, a very short break. I
11 may be done.

12 THE VIDEOGRAPHER: We're now off
13 the record. The time is 5:13 p.m.

14 (Whereupon, at this time, a short
15 break was taken.)

16 THE VIDEOGRAPHER: Back on the
17 record. The time is 5:26 p.m.

18 EXAMINATION BY

19 MR. MERVIS:

20 Q. Mr. Husson, my name's
21 Michael Mervis. I represent the Defendants in
22 the lawsuit that Mr. Amini was just
23 questioning you about.

24 A. Okay.

25 Q. The one that was brought by